

Message Text

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ACTION DLOS-09

INFO OCT-01 EUR-12 IO-13 ISO-00 AF-10 ARA-10 EA-10
NEA-10 ACDA-12 AGRE-00 AID-05 CEA-01 CEQ-01 CG-00
CIAE-00 COME-00 DODE-00 DOTE-00 EB-08 EPA-01
SOE-02 DOE-15 FMC-01 TRSE-00 H-01 INR-10 INT-05
JUSE-00 L-03 NSAE-00 NSF-01 OES-07 OMB-01 PA-01
PM-05 SP-02 SS-15 OIC-02 NSCE-00 SSO-00 USIE-00
INRE-00 DOEE-00 /174 W

-----086523 221744Z /46

O 221701Z MAR 78

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 7538

AMEMBASSY LONDON

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E.O. 11652: N/A

TAGS: PLOS

SUBJECT: LOS - PROTECTION OF THE MARINE ENVIRONMENT

FROM: AMBASSADOR RICHARDSON

REF: (A) LONDON 4534 (B) GENEVA 4340

1. USDEL WILL MAKE CONCERTED EFFORT TO IMPROVE PROVISIONS OF ALL RELEVANT PARTS OF LOS TEXT AS THEY BEAR UPON PROTECTION OF THE MARINE ENVIRONMENT AND MARINE LIFE. IN CONDUCTING THIS EFFORT, WE WILL BEAR IN MIND THAT EXISTING LEGAL OBLIGATIONS IN TEXT ARE ALREADY MORE FAR-REACHING THAN ANYTHING THAT HAS EVER APPEARED IN A BINDING TREATY (AS OPPOSED TO NON-BINDING DECLARATION), AND WILL SEEK TO AVOID LOSING WHAT WE ALREADY HAVE. NEVERTHELESS, I AM PERSUADED THAT IMPROVEMENTS ARE DESIRABLE, AND HAVE INFORMED MR. DAVID MUNRO OF THE IUCN THAT I WILL APPOINT USDEL VICE-CHAIRMAN OXMAN TO HEAD A DELEGATION

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ENVIRONMENTAL TASK FORCE EMBRACING ALL COMMITTEES WITH INSTRUCTIONS TO DEVELOP IDEAS IN COORDINATION WITH SYMPATHETIC DELEGATIONS AND REPORT TO ME BY THE END OF THE FIRST OR SECOND WEEK.

2. DEPARTMENT IS REQUESTED TO INFORM ALL INTERESTED AGENCIES AND CONGRESSIONAL STAFFS, AND ALL MEMBERS OF

ENVIRONMENT SUBCOMMITTEE OF LOS ADVISORY COMMITTEE OF THIS EFFORT. PARTICIPATION IN TASK FORCE, IN PARTICULAR OF SENATOR MUSKIE'S STAFF AND ADVISORY COMMITTEE MEMBERS, SHOULD BE ENCOURAGED. TASK FORCE WILL COMMENCE WORK ON MARCH 28.

3. TO EXTENT POSSIBLE, OXMAN REQUESTS WULF INITIATE INFORMAL DISCUSSIONS THIS WEEK WITHIN EXECUTIVE BRANCH AND WITH CONGRESSIONAL STAFF ON FOLLOWING PRELIMINARY THOUGHTS (AND ANY OTHERS HE DEEMS SUITABLE) RE ULTIMATE OUTCOME (NOT TACTICS):

A. TERRITORIAL SEA. SPECIFY THAT COASTAL STATE MAY ESTABLISH HIGHER STANDARDS FOR VESSELS ENTERING OR LEAVING ITS OWN PORTS OR REPEAT OR THOSE OF A RECIPROCATING STATE. (THIS WOULD BE ACCOMPANIED BY BILATERAL UNDERSTANDINGS WITH CANADA AND PERHAPS MEXICO, THEREBY COVERING VIRTUALLY ALL REPEAT ALL TRAFFIC IN US TERRITORIAL SEA.)

B. PORT STATE JURISDICTION. ELIMINATE OR REDUCE FLAG STATE PRE-EMPTION. (TO "COMPENSATE," STRENGTHEN HUMAN RIGHTS/INDIVIDUAL LIBERTIES GUARANTEES OF TEXT RE TRIALS IN FOREIGN COURTS ACROSS THE BOARD.)

C. ECONOMIC ZONE. REQUIRE SPECIAL INTERNATIONAL REGULATIONS BE DEVELOPED REGARDING CARRIAGE OF NON-LIMITED OFFICIAL USE

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REMOVABLE HAZARDOUS SUBSTANCES. PENDING ADOPTION, COASTAL STATE MAY ESTABLISH CIVIL AND CRIMINAL PENALTIES FOR DISCHARGE OF NON-REMOVABLE HAZARDOUS SUBSTANCES IN ITS ECONOMIC ZONE. (INCREASED INDIVIDUAL RIGHTS GUARANTEES WOULD ALSO APPLY HERE.) (CONVENTION MIGHT CONTAIN ANNEX LISTING SUBSTANCES THAT COULD BE REVIEWED AND CHANGED AT PERIODIC MEETINGS OF EXPERTS.)

D. JURISDICTION OF ANY STATE WHOSE COASTLINE OR RELATED INTERESTS ARE DAMAGED TO TRY AND PUNISH PERSONS RESPONSIBLE FOR GROSS NEGLIGENCE IN FAILING TO ADHERE TO GENERALLY ACCEPTED NAVIGATIONAL RULES AND PRACTICES. (THIS WOULD PARTIALLY REVERSE RELEVANT PROHIBITION IN EXISTING HIGH SEAS CONVENTION.)

E. HABITAT PROTECTION. ADD GENERAL PROVISION REQUIRING PROTECTION OF SPAWNING AREAS AND OTHER RARE OR VULNERABLE HABITATS.

F. NEW MARINE MAMMALS TEXT.

G. CLARIFY SB AUTHORITY POWER TO ESTABLISH ENVIRON-

MENTAL MEASURES FOR ALL DEEP SEABED MINING ACTIVITIES
AT SEA OUTSIDE NATIONAL JURISDICTION, INCLUDING PROCESSING
AT SEA (DEFINED TO PRESERVE IMCO SAFETY AND ENVIRONMENTAL
REGULATIONS APPLICABLE TO ALL SHIPS.)

H. WORK OUT BROADLY SUPPORTED INTERPRETIVE STATEMENT
THAT "APPLICABLE" OR "GENERALLY ACCEPTED" INTERNATIONAL
REGULATIONS IS A DYNAMIC CONCEPT THAT EMBRACES THE MOST
MODERN REGULATIONS. AT PRESENT, THAT WOULD INCLUDE THE
STANDARDS OF THE 1973 CONVENTION.

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FROM AMBASSADOR RICHARDSON

4. EFFORT NEEDED TO ACHIEVE RESULTS OUTLINED PARA 3 WILL
BE CONSIDERABLE, AND WILL INVOLVE EXPENDITURE OF
NEGOTIATING LEVERAGE. MOREOVER, BEFORE AGREEING TO ANY
SUCH CHANGES, MANY FOREIGN DELS, INCLUDING LDC'S, WILL
WISH TO KNOW IF THESE CHANGES ARE LIKELY TO PRODUCE
POSITIVE SUPPORT FOR LOS TREATY BY PRIVATE AND
CONGRESSIONAL ENVIRONMENTALISTS. ACCORDINGLY, ASSESSMENT
IN THIS REGARD FROM THOSE INVOLVED IS NEEDED.

5. FOR LONDON. WE DO NOT ANTICIPATE DETAILED POLLUTION
DISCUSSION AT INITIAL G5 DINNER MONDAY. IN VIEW FOREGOING,
WE PREFER TO MEET WITH UK DURING WEEK. SOME IN UK WILL

NOT REPEAT NOT BE HAPPY WITH ABOVE MOVES. ACCORDINGLY,
EMBASSY MAY WISH TO ADVISE HMG AT APPROPRIATE LEVEL OF
REPEATED EMPHASIS ON ENVIRONMENTAL ISSUES BY PRESIDENT
CARTER, RECENT ENACTMENT OF MUSKIE AMENDMENT EXTENDING US
POLLUTION JURISDICTION TO 200 MILES, AND ANTICIPATED
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RATIFICATION DIFFICULTIES IF ENVIRONMENTAL TEXTS ARE NOT
IMPROVED. UK COOPERATION WILL BE NEEDED, AND IT IS NOT
TOO EARLY FOR EMBASSY TO STIMULATE HIGH LEVEL ENVIRONMENTAL
INPUT IN HMG IN ORDER TO HEAD-OFF NEGATIVE REACTION BY
SHIPPING-ORIENTED PERSONNEL. AT SAME TIME, LATTER SHOULD
BE ENCOURAGED TO PERCIEVE BROADER INTEREST IN COOPERATING
IN OUR EFFORTS TO COME UP WITH REASONABLE INTERNATIONAL
SUBSTITUTE FOR MUSKIE AMENDMENT. VANDEN HEUVEL

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Message Attributes

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